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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/696,013	10/26/2000	Hiroshi Yoshida	P107400-00016	2916

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ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
1050 Connecticut Avenue, N.W., Suite 600
Washington, DC 20036-5339

EXAMINER

KOSLOW, CAROL M

ART UNIT PAPER NUMBER

1755

DATE MAILED: 08/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/696,013

Applicant(s)

YOSHIDA ET AL.

Examiner

C. Melissa Koslow

Art Unit

1755

--The MAILING DATE of this communication appears on the cover sheet with the corresponding address--

THE REPLY FILED 14 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 6-10 and 13-17.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


C. Melissa Koslow
Primary Examiner
Art Unit: 1755

Continuation of 5. does NOT place the application in condition for allowance because: Applicants' arguments are not convincing. With respect to the art rejection arguments, there is no showing that the mere presence of the taught dopants will not inherently adjust the ferromagnetic characteristics of ZnO. The rejected claims do not claim any specified or predetermined values. Miyazaki et al clearly teaches the doped ZnO has a single crystalline phase and thus is single crystalline. Applicants' statement in the second paragraph on page 6 is that a single crystalline film will not form unless it is not on a single crystalline substrate is countered by the teaching in the specification. It is noted that the phrase "single crystalline" is being interpreted to mean a single crystalline phase. With respect to the 35 USC 112 rejection, applicants' arguments are not convincing for the reasons given in the Final Office Action. Applicants argue figure 3(a) teaches a temperature range of about 380-950C, but the figure is not detailed enough for these argued end points to actually be determined from the graph by one of ordinary skill in the art since no increments between the points. In addition there are no increments between the two points on the x-axis in figure 3(a) and no increments on either of the figure 4 graphs. The rejections are maintained of the above reasons.